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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/806,807	06/25/2001	Adriaan Retief Swanepoel	0182.00004	6018

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EXAMINER

BALSIS, SHAY L

ART UNIT	PAPER NUMBER
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1744

DATE MAILED: 07/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/806,807

**Applicant(s)**

SWANEPOEL, ADRIAAN RETIEF

**Examiner**

Shay L Balsis

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 May 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Swanepoel (EP 0528643 A1).

Swanepoel teaches a windscreen wiper with an elongate curved backbone made of a flexible spring steel composite material with an elastic modulus of 207 GPa. The backbone has a free form curvature as well as a compound curvature when in use. The backbone has a varying width and thickness along its length.

The length, width and thickness were stated in the specification and with these numbers the calculations were computed. There are three examples and each show that differences between the calculated values and the actual values are minimal (charts 1-3 below). The claim language for claims 1-4 state that the magnitude of the width be taken at *substantially* the widest point and that the magnitude of the thickness be taken at *substantially* the thickest point. It is seen that while these calculated values and the actual values differ, the deviance is considered to be acceptable. The reference teaches the exact magnitude of the widest and thickest points. The actual values vary from the calculated because the calculated values are not necessarily at the widest or thickest point but at *substantially* the widest and thickest points.

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Chart 1

Swanepoel (L=440)			
	calculated (mm)		actual (mm)
W	10.317		11
Ratio W	0.0234		0.025
T	1.1188		1.15
Ratio t	0.002543		0.0026

Chart 2

Swanepoel (L=450)			
	calculated (mm)		actual (mm)
W	10.671		11
Ratio W	0.0237		0.024
T	1.126		1.29
Ratio t	0.0025		0.00287

Chart 3

Swanepoel (L=450)			
	calculated (mm)		actual (mm)
W	10.671		11
Ratio W	0.0237		0.0244
T	1.126		1.15
Ratio t	0.0025		0.0026

### *Response to Arguments*

Applicant's arguments filed 5/25/04 have been fully considered but they are not persuasive.

Applicant is correct in stating that the original chart 3 should really have had a length of 450 mm. Chart 3 has been corrected. Chart 1 actually refers to example 2 in the prior art reference, and chart 2 refers to example 1 in the prior art reference.

Applicant argues that the Examiner has provided no basis for the conclusion that the "actual values vary from the calculated because the calculated values are not necessarily at the widest or

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thickest point but at substantially the widest and thickest points.” Examiner will clarify the previous statement so that the Applicant will understand the basis for the rejection. The actual maximum width or thickness of the reference can be greater than the calculated value of the width or thickness using the claimed equations because the calculated values do not have to be at the widest point, they only have to be at substantially the widest point. The calculated values of the width, 10.317 mm and 10.671 mm, are within the realm of substantially the widest width when the widest width is 11 mm. The claims clearly states “substantially the widest” and “substantially the thickest” which means that the values at substantially the widest and thickest points are not necessarily the values at the widest and thickest points. Therefore, the calculated values could be close to the actual values and still fall within the limitations of the claim. Examiner would like to ask the Applicant what he thinks the meaning of substantially is, if the Applicant does not agree with the Examiner’s rebuttal.

Examiner is admitting there are small differences between the calculated values and the actual values and that these small differences might affect the vertical and lateral stiffness of the backbone. However, using the terminology of substantially the widest and substantially the thickest, the Examiner still feels that the Swanepoel reference (‘643) meets the limitations of the claims regardless of how it affects the vertical and lateral stiffness since that is not the issue that is claimed.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the

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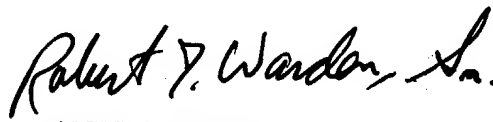
date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shay L Balsis whose telephone number is 571-272-1268. The examiner can normally be reached on 7:30-5:00 M-Th, alternating F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert J. Warden can be reached on 571-272-1281. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Slb  
6/16/04

  
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